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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2424

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/896,733	Applicant(s) BOWERS, J. ROB	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/31/2008 has been entered.

Response to Amendment

1. This action is responsive to an Amendment filed 7/31/2008. Claims **1, 2, 5-10** are pending. Claim **1** is amended. Claims **3, 4, 11-54** are canceled. The examiner hereby withdraws the objection to claim **1** in light of the amendment.

Response to Arguments

1. Applicant's arguments regarding claim **1**, filed 7/31/2008, have been fully considered, but they are not persuasive.

Regarding claim **1**, the applicant argues that the prior art fails to teach or suggest that that each request comprises a unique identifier identifying the particular one of the plurality of receivers making the request. The examiner respectfully disagrees. Suzuki discloses that, in response to a request from a terminal 11, an access to requested multimedia data stored in a multimedia data storage device 1 is made, and the requested multimedia data is taken in buffers

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22 of the input/output unit 2 to which the requesting terminal 11 is connected (col. 5, l. 39-44).

When requests for the same data J are issued from the terminals 11-A and 11-B almost simultaneously, i.e., within a prescribed period of time, the buffers 22-A and 22-B connected with these terminals send access requests with respect to the data J to the data Management unit 4. Here the request re-construction unit 42 of the data management unit 4 has a function to combine the requests for the same data received within each unit time period, so that the requests sent from the buffers 22-A and 22-B are combined into a single unified requests as they are for requests for the same data received within the same unit time period. At the data management unit 4, it can be judged that the data J requested by this single unified request is stored in the multimedia data storage device 1-X according to the data management table 41, so that the data J is transferred from the multimedia data storage device 1-X to both of the buffers 22-A and 22-B simultaneously, by means of a single access. At this point, the buffers 22-A and 22-B are registered as the buffers storing the data J in the data management table 41 (col. 18, l. 26-49). That is, each of the requests from buffers 22-A and 22-B corresponding to requests from terminals 11-A and 11-B, respectively, identifies the particular receiver and corresponding receiver buffer making the request. If this were not the case, data management unit would not know which of the buffers to transmit the data to. Suzuki further states that one buffer 22 may be provided in correspondence to one terminal (col. 18, l. 50-52). The examiner notes that a request identifying this buffer would further “identify” the particular one of the plurality of receivers. As such, the examiner interprets the function of the data management unit to receive multiple requests and combine them into a single request for data as meeting the limitation of an “aggregation module storing a list comprising each of the unique identifiers identifying each of

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the plurality of receivers from which a request has been received,” as currently claimed. Suzuki further notes that buffers 22-A and 22-B are then registered as the buffers storing the data J in the data management table 41 (col. 18, l. 40-49 & Figs. 11-15, 17, 18).

Suzuki further discloses that an embodiment where the system is distributed using a configuration of parallel processors PE0 to PE8. Each processing unit comprises a router for making communications with the other processing elements. When a terminal T0 issues a request for video data V stored in magnetic disk M0, the processing element PE1 connected with this terminal T0 inquires the processing element PE2 (data management unit) about a stored position of the video data V. In response, the processing element PE2 informs the magnetic disk M0 of the processing element PE0 as the stored position of the video data V to the processing element PE1. As a result, the processing element PE1 can learn that the video data V is stored in the magnetic disk M0, so that the video data V is copied from the magnetic disk M0 of the processing element PE0 to the memory of the processing element PE1. The video data V stored in the memory of the processing element PE1 is then transferred to the terminal T0 via the input/output unit of the processing element PE1 (col. 23, l. 17-24, 62-67; col. 24, l. 1-15; & Fig. 24). In this case, it is also possible to add a function for reconstructing a number of requests for the same multimedia data into a single unified request to the processing elements (col. 24, l. 19-23 & Figs. 23, 24). The examiner notes that addresses of the processing units must be stored by the reconstruction unit in order to correctly route the data back to the appropriate terminals via the routers. This also meets the limitation of an “aggregation module storing a list comprising each of the unique identifiers identifying each of the plurality of receivers from which a request has been received,” as currently claimed.

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Further regarding claim 1, the applicant argues that the prior art fails to teach each request comprising access rights associated with the particular one of the plurality of receivers making the request. The applicant further argues that the prior art fails to teach or suggest that the aggregation module compares the access rights received in the request and associated with the particular one of the plurality of receivers making the request with access and security information stored within a database. The examiner respectfully disagrees. The applicant specifically argues that the teachings of McClain et al. only suggest that access rules are applied, but fails to teach or suggest that the access rights are contained within the received request.

As noted in the Office Action below, Suzuki does not specifically disclose that each request comprise access rights associated with the particular one of the plurality of receivers making the request. Suzuki further does not specifically disclose that the aggregation module compares the access rights received in each request and associated with the particular one of the plurality of receivers making the request with access and security information stored within a database. McClain et al. discloses a system and method for filtering web-based content by vending it to the client only if the client meets predefined user policies (Abstract). The clients use unique user names to communicate with a proxy cache server (col. 2, l. 13-24, 61-63). Content is categorized according to a variety of rating schemes into content that is or is not appropriate for specific users (col. 4, l. 52-55). As such, the examiner interprets the user name associated with the request to be “access rights associated with the particular one of the plurality of receivers making the request,” since the user name determines whether the user has access to requested content. McClain et al. discloses that the ratings are applied to the specific users based upon predefined user policies associated with the unique user name (col. 2, l. 61-63). Based

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upon these preset user policies, a filter either allows return of requested content to the client, or returns a message denying access to the user (col. 6, l. 40-45 & col. 9, l. 52-56). The examiner interprets associating the user name of the communication with the present user policies to determine access to requested content as “comparing the access rights received in each request and associated with the particular one of the plurality of receivers making the request with access and security information stored within a database.” As such, the examiner maintains that McClain et al. suitably remedies the deficiencies of Suzuki, and that it further would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include receiving a unique user name and a request for content, comparing the user name and content request with a set of content rules for the user, and determining whether to allow or deny access to the content, such as that taught by McClain et al. in order to ensure that a particular client can only access information that is authorized (McClain et al. col. 2, l. 36-39).

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim **10** is rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory subject matter. The examiner notes that programs constitute functional descriptive material; however, functional descriptive material is nonstatutory when claimed as descriptive material *per se*. The examiner further notes that the claim recites a computer-readable storage medium carrying computer-executable instructions; however the specification defines that the

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medium can be a communications connection to a computer, either hardwired, wireless, or a combination of hardwired or wireless (p. 16, lines 3-10). The examiner notes that a claim directed to a signal *per se* does not appear to be a process, machine, manufacture, or composition of matter. See **MPEP 2106.01** for guidance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 2, 6, and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of McClain et al (of record).

Referring to claims **1** and **10**, Suzuki discloses a method/computer program product for providing real-time streaming media from a wide area network to a plurality of receivers in a system having a plurality of receivers and at least one aggregation module; the method comprising the following acts:

(a) receiving by at least one aggregation module one or more requests for real-time streaming media accessible via a wide area network, each of the one or more requests being received from one of the plurality of receivers, each request comprising a unique identifier identifying the particular one of the plurality of receivers making the request, and the aggregation module storing a list comprising each of the unique identifiers identifying each of the

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plurality of receivers from which a request has been received (col. 5, l. 39-44; col. 18, l. 26-67; col. 23, l. 3-43, 62-67; col. 24, l. 1-15, 19-23; & Figs. 11-15, 17, 18, 20, 24, 25);

(b) after act (a), the at least one aggregation module determining whether the number of requests received is greater than a defined maximum number of requests that maintains a connection rate of a shared network at a preferred level (col. 18, l. 26-31), aggregating a plurality of requests into a single request for a single copy of the real-time streaming media (col. 18, l. 50-67 & col. 19, l. 1-3), and sending the single request for a single copy of the real-time streaming media to the wide area network (the examiner notes that a single unified request is issued to server 20 and the data N is transferred to server 10. The examiner interprets this to be a single request for a single copy of the media)(col. 19, l. 3-8 & Fig. 20);

(c) after acts (b), buffering the single copy of the real-time streaming media at the at least one aggregation module (col. 18, l. 53-58 & col. 19, l. 8-14);

(d) using the buffered single copy of the real-time streaming media, delivering the streaming media to the plurality of receivers (col. 18, l. 1-9, 53-58); and

(e) the aggregation module tracking the activities of the receivers and identifying frequently requested real-time streaming or continuous media (col. 2, l. 31-39; col. 6, l. 19-34; & col. 18, l. 10-16).

Suzuki does not specifically disclose that each request comprise access rights associated with the particular one of the plurality of receivers making the request. Suzuki further does not specifically disclose that the aggregation module compares the access rights received in each request and associated with the particular one of the plurality of receivers making the request

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with access and security information stored within a database. McClain et al. discloses a system and method for filtering web-based content by vending it to the client only if the client meets predefined user policies (Abstract). The clients use unique user names to communicate with a proxy cache server (col. 2, l. 13-24, 61-63). Content is categorized according to a variety of rating schemes into content that is or is not appropriate for specific users (col. 4, l. 52-55). The ratings are applied to the specific users based upon predefined user policies associated with the unique user name (col. 2, l. 61-63). Based upon the preset user policies, a filter either allows return of requested content to the client, or returns a message denying access to the user (col. 6, l. 40-45 & col. 9, l. 52-56). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include receiving a unique user name with a request for content, comparing the user name and content request with a set of content rules for the user, and determining whether to allow or deny access to the content, such as that taught by McClain et al. in order to ensure that a particular client can only access information that is authorized (McClain et al. col. 2, l. 36-39).

Referring to claim **2**, the combination of Suzuki and McClain et al. teaches a method as recited in claim 1, wherein the at least one aggregation module is remote from at least one of the plurality of receivers (since the buffers are connected to the terminals, the terminals are remote from the multimedia server)(Suzuki col. 18, l. 1-9, 53-58 & Fig. 20).

Referring to claim **6**, the combination of Suzuki and McClain et al. teaches a method as recited in claim 1, further comprising delivering the streaming media to each of the plurality of receivers by a multicast broadcast (the examiner notes that each buffer may support a plurality of terminals)(Suzuki col. 18, l. 53-58).

3. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of McClain et al. and further in view of Kuhn.

Referring to claims 5 and 7, the combination of Suzuki and McClain et al. teaches a method as recited in claim 1. The combination of Suzuki and McClain et al. does not specifically teach selecting a media format. Kuhn discloses transcoding multimedia data into various media formats (i.e., MPEG)(Paragraphs. 1, 23, & 45). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Suzuki and McClain et al. to include transcoding multimedia data into various media formats, such as that taught by Kuhn in order to allow a greater variety of receivers to use the system.

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of McClain et al. and further in view of Imajima et al.

Referring to claims 8 and 9, the combination of Suzuki and McClain et al. teaches a method as recited in claim 1. The combination of Suzuki and McClain et al. does not specifically teach the use of used and unused channels and identifying when to deliver a single copy of real-time streaming media to the plurality of receivers by at least one of the plurality of unused channels. Imajima et al. discloses a system for determining whether or not the broadcast of a video is to be provided in the full video on demand (FVOD) or near video on demand (NVOD) service, and if there is any available channel for the broadcast (Abstract). A busy state monitoring mechanism determines the busy level by checking if the number of videos being provided is equal to or larger than a threshold value n. If the busy level of the VOD server has

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exceeded a certain level, then the VOD server is in the busy state, the FVOD service is switched to the NVOD service and the requested video is broadcast in the NVOD service along an available channel (col. 14, l. 6-6-11 & col. 16, l. 30-40). When providing a video in the NVOD service, the NVOD service providing mechanism notifies the set top box (STB) at the subscriber of the NVOD service starting time and of the receiving channel for the video data (col. 15, l. 63-67 & col. 16, l. 1). The STB 220 sets the receiving channel to the channel specified according to the channel information (col. 13, l. 10-13). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Suzuki and McClain et al. to include utilizing multiple used and unused channels, identifying when to provide a requested video through the unused channels, and switching to the receiving channel for the video, such as that taught by Imajima et al. in order to provide a VOD service with easy operation and reduced load on the cable television (CATV) center (Imajima et al. col. 4, l. 10-11, 17-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit
2424

MVH